

**REMARKS*****Summary of the Amendment***

Upon entry of the above amendment, claim 16 will have been amended. Accordingly, claims 1 – 30 currently remain pending.

***Summary of the Official Action***

In the instant Office Action, the Examiner has indicated that claims 22 – 27 are allowed. Further, the Examiner has objected to an informality in claim 16 and rejected claims 1 – 21 and 28 – 30 over the applied art of record. By the present amendment and remarks, Applicants submit that the objections and rejections have been overcome, and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

***Amendment is Proper for Entry***

Applicants submit that the pending amendment to independent claim 16 is directed to an informality to address an issue related to grammar. Further, Applicants note that amended claim 16 has been amended to more clearly recite the subject matter that is consistent with the arguments presented in the preceding response.

Accordingly, Applicants submit that, as neither new issues requiring further search or consideration nor questions of new matter are raised in the present amendment to the claims, entry and consideration of this amendment is proper and respectfully requested.

***Acknowledgment of Allowed Subject Matter***

Applicants gratefully acknowledge and agree with the Examiner's allowance of claims 22 – 27.

***Objection Based Upon Informality is Moot***

Applicants submit that the objection to claim 16 based upon an informal matter is moot in view of the pending amendment to claim 16. In this regard, claim 16 has been amended in accordance with the Examiner's suggestion in the pending office action.

Accordingly, Applicants request that the Examiner reconsider and withdraw the objection to claim 16 indicate that this claim, and all pending claims, are fully in compliance with the Patent Office Rules.

***Traversal of Rejection Under 35 U.S.C. § 103(a)***

***1. Over Poschinger in view of Tunney***

Applicants the rejection of claims 1, 2, 4 – 11, 13 – 17, 19 – 21, and 28 – 30 under 35 U.S.C. § 103(a) as being unpatentable over POSCHINGER (U.S. Patent No. 4,566,589) in view of TUNNEY et al. (U.S. Patent No. 6,635,119) [hereinafter "TUNNEY"]. While acknowledging that POSCHINGER fails to disclose or suggest the recited ground connection, the Examiner asserts it would have been obvious to include such a connection in view of the disclosure by TUNNEY. Applicants traverse the Examiner's assertions.

With regard to the pending rejection of the claims under 35 U.S.C. § 103(a), Applicants note the Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, Applicants are under no obligation to submit evidence of non-obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met:

- (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

- (2) there must be a reasonable expectation of success; and
- (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2142.

Further, while rejecting a *rigid* application of the teaching, suggestion, or motivation (“TSM”) test in an obviousness inquiry, the U.S. Supreme Court acknowledged the importance of identifying “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does” in an obviousness determination. *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

Applicants independent claim 1 recites, *inter alia*, inserting an electrically conducting stretched material into the container before inserting gas into the container, *electrically connecting to an electrical ground and at least one of: the electrically conducting stretched material, and an area in a vicinity of an outlet opening of a filling pipe for inserting the gas into the container*; and inserting gas into the container under compression. Applicants’ independent claim 13 recites, *inter alia*, *electrically grounding at least one of: the electrically conducting stretched material, and an area in a vicinity of an outlet opening of a filling pipe for inserting a gas into a container*; and contacting the electrically conducting stretched material with the gas in the container under a compressed atmosphere. Further, Applicants’ independent claim 16 recites, *inter alia*, an electrically conducting stretched material, and an electrical ground

connection at least one of: to the electrically conducting stretched material, and located in a vicinity of an outlet of a filling pipe within the gas container. Applicants submit that no proper combination of POSCHINGER in view TUNNEY under 35 U.S.C. § 103(a) suggests the embodiments of the invention.

As noted in Applicants' prior response, POSCHINGER fails to disclose an electrical ground connection to at least the electrically conducting stretched material and/or an area in the vicinity of an outlet in a filling pipe, as now recited in at least independent claims 1, 13, and 16. In the pending Office Action, the Examiner has acknowledged this defect of POSCHINGER, but has now cited TUNNEY as suggesting that it would have been obvious to modify POSCHINGER to include an electrical ground connection. Applicants submit that TUNNEY fails to provide any express or implied suggestion for modifying POSCHINGER's tank to include a ground connection.

Applicants note that POSCHINGER discloses a liquid gas container, e.g., a propane container. As such tanks may be exposed to the dangers of explosion, POSCHINGER provides the interior of the container with an aluminum or aluminum alloy grid structure (as a heat conductive filler inlay) so as to "preclude the danger of the build-up of corrosion potentials between the container walls and the heat conductive filler inlay within the container, which . . . thereby substantially eliminates the possible formation of friction and localized heat generating spots within the container." POSCHINGER, col. 1, ll. 33 – 41. Thus, the purpose of the metallic grid of POSCHINGER is to "rapidly conduct localized heat away from the point of its formation and to distribute it over the entire surface of the container, so as to preclude the formation of localizing overheating, as well as the generation and propagation of flames and explosions." POSCHINGER, col. 1, ll. 45 – 53. However, as previously noted, POSCHINGER provides no

express or implied disclosure of electrical charges arising during a filling operation of the container, or the discharging of such charges through an electrical ground connection is found in POSCHINGER. Further, Applicants note that POSCHINGER fails to even suggest a filling pipe for inserting gas into the container.

To address the above-noted defects of POSCHINGER with reference to Applicants' independent claims 1, 13, and 16, the Examiner has cited TUNNEY as disclosing a "gas container (402) having a ground connection (see step 104) to a lug on the container or in any other location apparent to a person skilled in the art (see col. 7, lines 29-34) to minimize spark and possible ignition of the chemical." Final Action, p. 3, ll. 4 – 7. Based on this disclosure of TUNNEY, the Examiner alleges it would have been obvious to modify POSCHINGER to have an electrical ground attached at a location one or in the container "to minimize spark and possible ignition of the chemical or gas contained therein." Final Action, p. 3, ll. 8 – 11.

In contrast to POSCHINGER, which is directed to a safety device and method for preventing flames and explosions in a gas container in residential or industrial use, TUNNEY is directed to a method of *cleaning* pressurized containers containing liquid petroleum gas. While the Examiner has correctly noted that TUNNEY discloses grounding the container, Applicants note that this grounding is performed to minimize the possibility of a spark being generated during the cleaning process, when a heated nitrogen gas supply is attached to the container and the heated nitrogen gas is supplied into the container in order to remove residual chemicals from the container.

Thus, Applicants note that TUNNEY fails to arguably suggest the possibility of a spark in a full container or even in an empty/partially empty container, until the cleaning process is to be performed. Thus, Applicants note that one ordinarily skilled in the art would not understand

the disclosure of TUNNEY as arguably suggesting the possibility of a spark in a gas container in residential or industrial use, such as described by POSCHINGER. Moreover, as the gas containers described by POSCHINGER are dedicated to containment units for a specified gas, e.g., propane, it is not suggested in the applied art that the POSCHINGER container will require the cleaning process described by TUNNEY.

Because TUNNEY fails to provide any express or implied teaching of a possibility of a spark occurring in a gas container, such as described by POSCHINGER, which is provided as a storage containment and supply device, Applicants submit that the Examiner has not identified any articulated reasoning in the applied art of record for combining POSCHINGER and TUNNEY in the manner suggested in the pending Office Action.

Applicants further note that, when *cleaning the interior* of the tanker car or container, TUNNEY discloses that the container “may be grounded” and “a ground wire may be connected to a ground lug on the container 402 or in any other locations apparent to a person having ordinary skill in the art.” TUNNEY, col.7, ll. 28 – 34. Thus, Applicants note that, in contrast to the expressly recited features of at least independent claims 1, 13, and 16, TUNNEY merely suggests grounding the container via a ground connection *on* the container. For this additional reasoning, Applicants submit that neither applied document of record suggests a ground connection to an electrically stretched material within the container, and certainly not in an area in the vicinity of an outlet of a filling pipe (which is not disclosed by either applied document).

Thus, Applicants submit that both applied documents fail to expressly or implied suggest a spark occurring in a gas container, such as described by POSCHINGER, such that, despite TUNNEY’s disclosure, there is no arguable reasoning for connecting a ground connection to the grid located inside of POSCHINGER’s container. Therefore, Applicants submit that, as no

proper combination of POSCHINGER in view of TUNNEY under 35 U.S.C. § 103(a) can render unpatentable the combination of features recited in at least independent claims 1, 13, and 16, the pending rejection is improper and should be withdrawn.

Further, Applicants submit that claims 2, 4 – 11, 14, 15, 17, 19 – 21, and 28 – 30 are allowable at least for the reason that these claims depend from allowable base claims and because these claims recite additional features that further define the present invention. In particular, Applicants submit that no proper combination of POSCHINGER in view of TUNNEY under 35 U.S.C. § 103(a) can render obvious the embodiments of the invention recited in at least claims 2, 4 – 11, 14, 15, 17, 19 – 21, and 28 – 30.

Accordingly, Applicants request that the Examiner reconsider and withdraw the rejection of claims 1, 2, 4 – 11, 13 – 17, 19 – 21, and 28 – 30 under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

2. Over Poschinger in view of Tunney and further in view of Schrenk

Applicants traverse the rejection of claims 3 and 18 under 35 U.S.C. § 103(a) as being unpatentable over POSCHINGER in view of TUNNEY and further in view of SCHRENK (U.S. Patent No. 4,613,054).

Applicants note that, like both POSCHINGER and TUNNEY, SCHRENK fails to provide any arguable disclosure of generating electrical charges within the container during a filling operation or during normal operation. As a result, Applicants submit that, as none of applied documents of record can even arguably suggest a ground connection to dissipate charges occurring during the filling or normal operation of POSCHINGER's container, no proper combination of these documents can arguably suggest the embodiments of the invention recited in at least independent claims 1 and 16. Moreover, because the applied art fails to disclose or

suggest the generation of charges in the container, the applied art of SCHRENK fails to provide any articulated reasoning for modifying any proper combination of POSCHINGER in view of TUNNEY to include a ground connection to at least the electrically conducting stretched material and/or an area in the vicinity of an outlet in a filling pipe, as recited in at least independent claims 1 and 16.

Because none of the applied documents of record discloses the recited ground connection, Applicants submit that no proper combination of these documents can render unpatentable the combination of features recited in at least independent claims 1 and 16. Further, Applicants submit that claims 3 and 18 are allowable at least for the reason that these claims depend from allowable base claims and because these claims recite additional features that further define the present invention. In particular, Applicants submit that no proper combination of POSCHINGER in view of TUNNEY and further in view of SCHRENK can render obvious the embodiments of the invention recited in claims 3 and 18.

Accordingly, Applicants request that the Examiner reconsider and withdraw the rejection of claims 3 and 18 under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

3. Over Poschinger in view of Tunney

Applicants traverse the rejection of claim 12 under 35 U.S.C. § 103(a) as being unpatentable over POSCHINGER in view of TUNNEY.

Applicants initially note that it is not apparent why claim 12 has been rejected separately from the other claims rejected over the asserted combination of POSCHINGER and TUNNEY, which has been traversed above. It is assumed that this separate rejection was merely inadvertent, such that Applicants arguments in support of claim 12 are the same as set forth above under heading 1 of this section of Applicants' response.



Further, Applicants submit that claim 12 is allowable at least for the reason that it depends from allowable base claims and because it recites additional features that further defines the present invention. Therefore, Applicants submit that no proper combination of POSCHINGER in view of TUNNEY under 35 U.S.C. § 103(a) can render obvious the embodiments of the invention recited in claim 12.

Accordingly, Applicants request that the Examiner reconsider and withdraw the rejection of claim 12 under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

***Application is Allowable***

Thus, Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully request the Examiner to indicate allowance of each and every pending claim of the present invention.

***Authorization to Charge Deposit Account***

The undersigned authorizes the charging of any necessary fees, including any extensions of time fees required to place the application in condition for allowance by Examiner's Amendment, to Deposit Account No. 19 - 0089 in order to maintain pendency of this application.

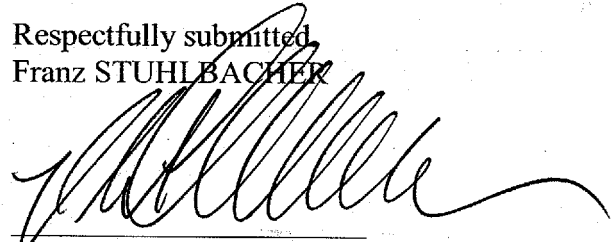
**CONCLUSION**

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicants' invention, as recited in each of claims 1 – 30. The claims have been amended to address any issues related to informalities and formal matters. In addition, the applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,  
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